

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-080255
	:	TRIAL NO. B-0710522
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
JAMES DANIELS,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.<sup>1</sup>

As part of a plea agreement, defendant-appellant, James Daniels, pleaded guilty to three counts of trafficking in heroin under R.C. 2925.03(A)(1), one as a fifth-degree felony and two as fourth-degree felonies. The trial court sentenced him to serve a total of 36 months' incarceration.

As provided in *Anders v. California*,<sup>2</sup> Daniels's appointed counsel has advised this court that, after a thorough review of the record, she can discern no arguable assignments of error to present on appeal. She has advised Daniels of this determination, and Daniels has raised a possible error in the proceedings below.

Daniels's counsel now asks this court to conduct an independent review of the record to determine whether the proceedings below were free from prejudicial error.<sup>3</sup>

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<sup>1</sup> See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

<sup>2</sup> (1967), 386 U.S. 738, 87 S.Ct. 1396.

<sup>3</sup> See *State v. Dorsey*, 1st Dist. No. C-070147, 2007-Ohio-5869; *State v. Mackey* (Dec. 17, 1999), 1st Dist. No. C-990302; *Freels v. Hills* (C.A.6, 1988), 843 F.2d 958.

She has also filed a motion to withdraw as Daniels's counsel. After reviewing the entire record, we are satisfied that Daniels's counsel has provided her client with a diligent and thorough search of the record and that she has correctly concluded that the proceedings below were free from prejudicial error.<sup>4</sup>

We find no merit in the possible error that Daniels has raised. He contends that the trial court should not have accepted his guilty plea because it did not inform him that the individual sentences on the three counts to which he pleaded guilty could be imposed consecutively. Failure to inform a defendant who pleads guilty to more than one offense that a court may order any sentences imposed to be served consecutively is not a violation of Crim.R. 11(C) and does not render the plea involuntary.<sup>5</sup>

We hold that no grounds exist to support a meritorious appeal. Therefore, we affirm the trial court's judgment and overrule counsel's motion to withdraw. We find the appeal to be frivolous under App.R. 23 and R.C. 2505.35, but refrain from taxing costs and expenses against Daniels because he is clearly indigent.

Further, a certified copy of this Judgment Entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**HENDON, P.J., HILDEBRANDT and DINKELACKER, JJ.**

*To the Clerk:*

Enter upon the Journal of the Court on January 28, 2009

per order of the Court \_\_\_\_\_.  
Presiding Judge

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<sup>4</sup> See *Penson v. Ohio* (1988), 488 U.S. 75, 109 S.Ct. 346; *Dorsey*, supra.

<sup>5</sup> *State v. Johnson* (1988), 40 Ohio St.3d 130, 532 N.E.2d 1295; *State v. Whiteside*, 9th Dist. No. 23891, 2008-Ohio-2309.